

Docket No: AM 100877  
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re of Application of: Jelinsky, Scott A. et al  
Application No.: 10/511,064      Group Art No.: 1639  
Filed: April 20, 2005      Examiner: Lundgren, Jeffrey  
For: Estrogen Receptor Alpha Regulated Gene Expression, Related  
Assays and Therapeutics  
Confirmation No.: 8561  
Customer Number: 25291

Commissioner of Patents  
PO Box 1450  
Alexandria, VA 22313-1450

RESPONSE

This is in reply to the Office Action mailed on July 12, 2005.

A petition for extension of time is included herewith, and, accordingly, the extended due date is January 12, 2006.

In response to the restriction requirement, Applicants elect, with traverse the claims of Group I. In addition, with traverse, Applicants make the following election of species:

Hormone: estrogen

First group: two or more of the following: ABCC3, NNTT73 and CYPB1

Second group: BHMT and SAHH

First plurality: the first group and second group as elected above.

Second plurality: see the discussion below

Applicants submit that those claims (whether to a plurality gene set, or a method or kit using such a plurality) can be searched along with the claims to the plurality without significantly burdening the search and examination. In addition, where the groups and pluralities are specifically elected than the hormone should not be limited. The estrogen or hormone should be selected from any ER ligand, which may include an estrogen, PPT, tamoxifen or ICI 82780.

For the second plurality, please note that this plurality of differentially expressed genes is determined by a comparative testing step. One would compare the expression results on the genes of the second plurality; however, since the second plurality are the result from a testing step specific genes (other than a second plurality comprising the elected first and second groups) should not be required since such a requirement would undermine and alter the concept of the invention. If an election is required for said second plurality, for the reasons above, Applicants elect for the second plurality the same first and second groups as the first plurality.

If there are any questions or comments, please contact Applicants' attorney at the number listed.

Your efforts in review of this matter are greatly appreciated.

Respectfully submitted,



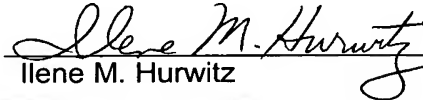
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**CERTIFICATE OF MAILING 37 CFR §1.10**

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date written below in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV080114622 US addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

January 11, 2006  
Date

  
Ilene M. Hurwitz